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Opinions adopted by the Working Group on Arbitrary Detention at its eighty-second session, 20–24 August 2018

Opinion No. 52/2018 concerning Xiyue Wang (Islamic Republic of Iran)

1. The Working Group on Arbitrary Detention was established in resolution 1991/42 of the Commission on Human Rights, which extended and clarified the Working Group's mandate in its resolution 1997/50. Pursuant to General Assembly resolution 60/251 and Human Rights Council decision 1/102, the Council assumed the mandate of the Commission. The Council most recently extended the mandate of the Working Group for a three-year period in Council resolution 33/30.

2. In accordance with its methods of work (A/HRC/36/38), on 31 January 2018 the Working Group transmitted to the Government of the Islamic Republic of Iran a communication concerning Xiyue Wang. The Government replied to the communication on 3 May 2018. The State is a party to the International Covenant on Civil and Political Rights.

3. The Working Group regards deprivation of liberty as arbitrary in the following cases:

(a) When it is clearly impossible to invoke any legal basis justifying the deprivation of liberty (as when a person is kept in detention after the completion of his or her sentence or despite an amnesty law applicable to him or her) (category I);

(b) When the deprivation of liberty results from the exercise of the rights or freedoms guaranteed by articles 7, 13, 14, 18, 19, 20 and 21 of the Universal Declaration of Human Rights and, insofar as States parties are concerned, by articles 12, 18, 19, 21, 22, 25, 26 and 27 of the Covenant (category II);

(c) When the total or partial non-observance of the international norms relating to the right to a fair trial, established in the Universal Declaration of Human Rights and in the relevant international instruments accepted by the States concerned, is of such gravity as to give the deprivation of liberty an arbitrary character (category III);

(d) When asylum seekers, immigrants or refugees are subjected to prolonged administrative custody without the possibility of administrative or judicial review or remedy (category IV);

(e) When the deprivation of liberty constitutes a violation of international law on the grounds of discrimination based on birth, national, ethnic or social origin, language, religion, economic condition, political or other opinion, gender, sexual orientation, disability, or any other status, that aims towards or can result in ignoring the equality of human beings (category V).

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Submissions

Communication from the source

4. Mr. Wang is a 37-year-old naturalized citizen of the United States of America who was born in Beijing, China. He usually resides in New Jersey, United States of America.

5. According to the source, Mr. Wang is a doctoral student in the Department of History at Princeton University. His primary area of study is the history of Europe and Asia. Mr. Wang received a bachelor's degree from the University of Washington and a master's degree from Harvard University in Russian and Eurasian studies. In September 2013, he began his doctoral studies at Princeton University. At the time the Iranian authorities detained him in Tehran, Mr. Wang was preparing to begin his dissertation by researching local governance issues during the late Qajar and early Pahlavi periods of historical Persia.

6. In 2016, with the authorization of the Government of the Islamic Republic of Iran and the backing of his graduate programme at Princeton University, Mr. Wang made two trips to the country on a student visa issued by the Iranian Ministry of Foreign Affairs to pursue pre-dissertation research. The first trip, which Mr. Wang made to study Farsi at the Dehkhoda Lexicon Institute and International Centre for Persian Studies, with the permission of the Ministry of Foreign Affairs, ran from 25 January to 10 March 2016 and passed without incident. However, the source reports that Mr. Wang became suspicious that someone had hacked into his computer during that trip.

7. On 1 May 2016, Mr. Wang returned to the Islamic Republic of Iran in order to continue his language studies and to collect archival materials for potential use in his dissertation. He planned to use the National Archives to conduct his research. The source states that Mr. Wang was open about the purpose of his historical research and that the Ministry of Foreign Affairs had approved his research plan. The Department of History of Princeton University gave a grant to Mr. Wang to cover his travel, language classes and living expenses while in the country. Mr. Wang also received an additional grant for the same purpose from the Sharmin and Bijan Mossavar-Rahmani Center for Iran and Persian Gulf Studies, a non-political academic programme supporting research on the region attached to Princeton University.

8. According to the source, while Mr. Wang was in the Islamic Republic of Iran, he requested permission to review two sets of historical documents pertaining to regional governance in the late imperial period of the Qajar Dynasty. The dates of the documents requested ranged from 1880 to 1921. Mr. Wang did not conduct any research on or request any documents pertaining to contemporary history. None of the documents he selected for review were classified.

9. The source reports that, in communications with his dissertation adviser and other Princeton University officials, Mr. Wang noted that a guard at the National Archives had expressed concern about his presence in the Archives building, and suggested that the authorities considered him to be a spy. However, Mr. Wang believed that he was safe because he had been authorized by the Government to pursue his studies and he was merely a scholar studying old archival documents of no relevance to national security.

10. On 17 July 2016, Mr. Wang told Princeton University officials that he would return to Princeton within 10 days. He had previously expressed concern that the Iranian authorities might be monitoring his communications. On 21 July 2016, four days after Mr. Wang notified Princeton University of his plans, the Iranian Diplomatic Police requested a meeting with Mr. Wang and questioned him for four hours, without the presence of legal counsel. The source alleges that, at that meeting, Mr. Wang's laptop and passport were confiscated and he was ordered to return to his apartment to await further instructions. The Diplomatic Police questioned him again a week later. During this period, Mr. Wang met with a local lawyer. He also attempted to communicate with Iranian diplomatic officials to explain the scholarly purposes of his stay in the country.

11. On 7 August 2016, the Diplomatic Police asked Mr. Wang to meet them at the Azadi Hotel in Tehran for further questioning. Later that day, Mr. Wang called his family

and informed them that the Diplomatic Police were with him at his apartment and had instructed him to pack his belongings because they were going to take him to the airport so that he could return to the United States. Instead, on the same day, the police detained Mr. Wang and brought him to Ward 209 of Evin Prison. The source alleges that no warrant was presented and it is therefore not known what authority ordered Mr. Wang's detention. The source also alleges that Mr. Wang was held incommunicado for seven days, and that his family and his local lawyer did not know his whereabouts and only learned of his incarceration after the local lawyer visited Evin Prison.

12. According to the source, Mr. Wang spent at least 18 days in solitary confinement at Evin Prison. Moreover, even after the local lawyer learned of Mr. Wang's whereabouts, Mr. Wang was not permitted to meet with his lawyer until 13 September 2016 — more than a month after his arrest — despite having submitted multiple requests to the court and the prison.

13. The source claims that Mr. Wang was repeatedly interrogated without access to legal counsel. The source also notes that, while both the Islamic Republic of Iran and the United States are party to the Vienna Convention on Consular Relations, the Islamic Republic of Iran did not notify either the United States or Switzerland (which represents the Government of the United States in the Islamic Republic of Iran) that Mr. Wang had been detained, in violation of article 36 of the Convention.

14. Furthermore, the source emphasizes that the Government waited more than five months before indicting Mr. Wang. Between 11 and 13 December 2016, an investigating judge held hearings during which Mr. Wang was questioned. On 22 January 2017, the judge referred Mr. Wang's case to Branch 15 of the Revolutionary Court. At that time, the Government formally charged Mr. Wang with espionage and collaboration with the "hostile State" of the United States of America against the Islamic Republic of Iran under articles 501 and 508 of the Islamic Penal Code.

15. The source states that it is difficult to know what other legal provisions might have been invoked in the indictment because it was kept secret from all but Mr. Wang's local lawyer. However, the indictment reportedly stated that Mr. Wang had been granted access to government archives against the wishes of the Ministry of Foreign Affairs and that he had gathered 3,000 pages of sensitive documents that were not relevant to his research. The indictment further stated that Mr. Wang had sent those documents to entities seeking to overthrow the Islamic Republic of Iran, allegedly including Mr. Wang's dissertation adviser at Princeton University. Finally, the indictment alleged that Mr. Wang's dissertation adviser paid $12,000 to Mr. Wang to compensate him for his work. The source states that all of these allegations are false.

16. According to the source, Branch 15 of the Revolutionary Court tried Mr. Wang in a closed session in violation of his due process rights. On 29 April 2017, the presiding judge of the Revolutionary Court found Mr. Wang guilty of espionage and collaboration and sentenced him to 10 years' imprisonment. Mr. Wang's local lawyer filed an appeal. On 14 August 2017, Branch 54 of the Revolutionary Court, sitting as a panel of three judges, denied Mr. Wang's appeal. The one-page opinion did not explain the Court's reasons for denying the appeal, other than stating that it agreed with the trial court's sentence.

17. The source reports that Mr. Wang's detention, trial and conviction did not become public until 17 July 2017, almost a year after his detention, when Mizan News Agency, a news service with alleged ties to the Iranian judiciary, published an account of the allegations against him. Mizan News Agency alleged that American research centres had been sending their representatives and professional spies to the Islamic Republic of Iran to collect documents and materials under the cover of legitimate scholarly activities. A supposed "spider web" of connections had, according to the report, deployed Mr. Wang to sneak into the country in order to collect classified and highly classified documents.

18. The source alleges that the authorities have subjected Mr. Wang to cruel and degrading treatment that has seriously affected his health and endangered his life. Mr. Wang's communications with his family while in prison reveal that he is rapidly deteriorating mentally, emotionally and physically after over two years of detention. He has lost weight and suffers from chest pain, severe back pain, fever, rash, headaches, vomiting,

stomach aches, severe tooth pain, foot injuries, arthritis, constipation, insomnia and diarrhoea. The source refers to a telephone call between Mr. Wang and his family on 21 March 2017 in which Mr. Wang, who at that point had been detained for 227 days, reported that he was suffering from back pain from sleeping on a hard floor and from itchy rashes all over his body. Three weeks later, he reported that his knees were so swollen and painful that he could not use the small toilet in his cell.

19. The source also alleges that Mr. Wang is kept indoors for extended periods of time and does not see any natural light for up to a week at a time. Furthermore, throughout the entire time of his detention, Mr. Wang has suffered from depression and has expressed suicidal thoughts to his family. After holding Mr. Wang in solitary confinement and subjecting him to continuous questioning, the authorities allegedly placed him in a series of dirty, overcrowded and unhygienic cells on Ward 209. From March to August 2017, Mr. Wang was forced to sleep on the floor of a 20-square-metre cell with up to 25 other detainees.

20. According to the source, Mr. Wang has also been subjected to sudden and unexplained transfers between prison wards. On 14 March 2017, he was transferred to Ward 209 from Ward 4, which houses ordinary prisoners. The source notes that conditions on Ward 209 are worse than those on Ward 4, and detainees on Ward 209 have been subjected to extended interrogation and solitary confinement. Most recently, Mr. Wang was unexpectedly transferred to Ward 7.

21. In addition, the source alleges that the authorities have not separated Mr. Wang from other detainees. As a United States citizen, Mr. Wang has been forced to share a cell with extremely hostile detainees, including one belonging to the Taliban movement. On 19 July 2017, Mr. Wang reported that he had been beaten by his cellmates. On 6 December 2017, after a sudden transfer to Ward 7, Mr. Wang reported that a detainee belonging to the Taliban movement had expressed his hatred of the United States and had threatened to kill him. Although this incident was reported to the authorities, Mr. Wang remains on Ward 7.

22. The source affirms that substandard conditions in the prison, coupled with the psychological and occasionally physical abuse that guards and fellow prisoners have inflicted on him, have severely affected Mr. Wang's physical and mental health. Despite his deteriorating condition, Mr. Wang receives only occasional visits from the prison physician, who provides limited treatment. Mr. Wang has not seen a dentist since his arrest. On 11 September 2017, the court granted permission for Mr. Wang to be visited by a physician who can treat the medical issues that the prison doctor has not addressed. Nevertheless, Mr. Wang has not been granted access to specialized medical facilities outside the prison, despite multiple requests from the Swiss Embassy and his local lawyer. The source submits that this conduct violates the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), particularly rules 24, 25, 27 and 30.

23. The source further submits that a representative of the Swiss Embassy has been able to make only five consular visits to Mr. Wang, and was not granted permission for such a visit for over two weeks after his detention. Mr. Wang and his local lawyer have repeatedly requested that Mr. Wang be allowed access to books and clothing shipped to the Islamic Republic of Iran by his family, but have faced resistance and refusals by the prosecutor and prison guards. Mr. Wang's access to a telephone varies depending on the ward he is being detained on and the discretion of prison officials.

24. The source adds that, in November 2017, the Iranian State-run Channel 2 evening news ran a six-minute segment on the espionage accusations against Mr. Wang, alleging that the Government of the United States had assigned him the topic for his dissertation at Princeton University and that he had collected 4,500 pages of documents to send to United States intelligence agencies. The segment interspersed these accusations with portions of a recorded interrogation of Mr. Wang. The source alleges that this interrogation took place after 18 days of solitary confinement. During the interrogation, Mr. Wang was allegedly surrounded by prison guards and faced enormous pressure to confess.

25. Finally, the source observes that although one domestic avenue for legal redress technically remains available — an extraordinary appeal to the Supreme Court of the

Islamic Republic of Iran — this option is not genuinely available or an effective means of redress for a United States national such as Mr. Wang. There is no realistic possibility that Mr. Wang could prevail in that court. Under general international law, a local remedy is considered ineffective if the remedy does not provide a reasonable possibility of redress.

26. Mr. Wang has now been in detention for over two years since his arrest on 7 August 2016 and remains in Evin Prison. The source submits that Mr. Wang's detention is arbitrary according to categories I, II, III and V.

Category I: lack of legal basis for the detention

27. In relation to category I, the source argues that the authorities arrested and detained Mr. Wang without providing a legal basis, in violation of the international obligations of the Islamic Republic of Iran, including under the Covenant. In particular, the Government violated articles 9 (1) and (2) of the Covenant, as the authorities did not inform Mr. Wang of the reasons for his arrest or of any charges against him. The source concludes that the Iranian authorities failed to provide a legal basis for Mr. Wang's arrest, noting that formal charges were not filed against him for five and a half months after his detention on 7 August 2016.

28. In addition, the source submits that the Government violated its obligation under article 9 (3) of the Covenant by failing to bring Mr. Wang before a judge promptly after his arrest and by holding Mr. Wang incommunicado for one week. Mr. Wang did not appear before the investigating judge until 11 December 2016, more than four months after his arrest.

29. In relation to the length of Mr. Wang's pretrial detention, the source observes that Mr. Wang's case was not referred to the Revolutionary Court until 22 January 2017. His first appearance before Branch 15 of the Revolutionary Court, the court that eventually tried and convicted him, was not until 11 March 2017, more than seven months after his arrest. While international law does not set a strict limit on a "reasonable" period of pretrial detention, the circumstances of this case support the finding that this protracted period of detention was not reasonable. The source notes that the Government has never offered any reasons for the delay in issuing formal charges and adjudicating Mr. Wang's case.

30. The source submits that when the authorities finally indicted Mr. Wang, he was charged with the crime of espionage, which is a vague and overly broad charge historically used by the Government as a pretext for the detention of foreigners. This charge does not satisfy the requirement of the Covenant that the legal basis for detention be defined with sufficient precision to avoid overly broad or arbitrary interpretation or application.[1]

31. Furthermore, Mr. Wang was convicted of espionage and of cooperation with a hostile State without a legal basis under Iranian law. According to the source, there is no evidence that Mr. Wang committed the requisite acts that satisfy the elements of the crimes he was charged with, as defined by articles 501 and 508 of the Islamic Penal Code. Mr. Wang's research requests only covered documents produced between 1880 and 1921, and could not have contained any information relevant to national or international policies of the modern Iranian State. In addition, the documents requested by Mr. Wang did not bear classified stamps that would have indicated sensitive content. The majority of the documents were newspaper clippings, so the information they contained was originally publicly available. Similarly, Mr. Wang did not cooperate with foreign States against the Islamic Republic of Iran, as he received no funding from the United States Government for his research, and has never served in the United States military or otherwise been employed by the United States Government.

Category II: exercise of fundamental rights

32. In relation to category II, the source submits that Mr. Wang's detention directly resulted from conduct that is protected by article 19 of the Covenant. Mr. Wang travelled to

[1] See Human Rights Committee, general comment No. 35 (2014) on liberty and security of person, para. 22.

the Islamic Republic of Iran to conduct dissertation research on nineteenth- and early twentieth-century Qajar and Pahlavi governance. He was peacefully exercising his right to seek and receive information for academic purposes in the form of historical records held by a public body.

33. Furthermore, the source notes that, on the face of it, the records that Mr. Wang sought to review do not implicate the national security interests of the Islamic Republic of Iran. That is, Mr. Wang sought to review unclassified historical records from more than 100 years ago. These documents do not contain any national security information, are not pertinent to the operations of the contemporary Government, and were not classified or labelled as such. The application of Iranian espionage laws to Mr. Wang is not permissible under article 19 (3) of the Covenant because it does not serve a legitimate interest, such as the protection of national security.

Category III: due process rights

34. In relation to category III, the source submits that violations of the most basic standards of due process were evident throughout Mr. Wang's pretrial and post-trial detention. Specifically, the source argues that Mr. Wang's pretrial detention violated article 9 of the Universal Declaration of Human Rights and article 9 of the International Covenant on Civil and Political Rights. The authorities arrested Mr. Wang without informing him of the reasons for his arrest or the charges against him. No charges were filed for five and a half months after his initial arrest, during which time Mr. Wang was held in detention, including in solitary confinement. Mr. Wang was not immediately brought before a judge, and was held for more than seven months before his trial began.

35. The source also submits that Mr. Wang's trial violated article 10 of the Universal Declaration of Human Rights and article 14 (1) of the Covenant. Mr. Wang's hearing was neither fair nor public, and the court was not independent and impartial. Mr. Wang was tried in the Revolutionary Court before a judge who is known for conducting political show trials and suspected of ties to the intelligence community, and thus does not qualify as impartial to a reasonable observer.[2]

36. Mr. Wang's right to a public hearing was also violated as his hearing was closed to the public. The source argues that the exclusion of the general public and Mr. Wang's United States-based attorneys from his trial cannot be justified by the Covenant's national security and public order exception, which has historically been invoked in cases of terrorist activity, leaks of classified information and other major threats to public safety. Mr. Wang's local lawyer was even precluded from sharing information with Mr. Wang's United States-based attorneys, which hindered their efforts to assist with his trial. Furthermore, his local lawyer was prevented from calling witnesses or speaking on Mr. Wang's behalf until the end of the trial.

37. The source further submits that the Government violated article 11 of the Universal Declaration of Human Rights and article 14 (3) of the Covenant, as the limitations imposed by the judiciary, including extreme secrecy, made it impossible to present a proper defence. Only Mr. Wang's local lawyer was allowed access to the indictment and evidence against Mr. Wang. Furthermore, without any explanation, the Revolutionary Court rejected Mr. Wang's request to retain experienced local counsel to assist with his defence. The source notes that the Court may have withheld some evidence collected by the Iranian intelligence service from Mr. Wang's local lawyer, making it impossible for Mr. Wang to properly contest the charges.

38. According to the source, the Iranian authorities violated article 14 (2) and (3) (g) of the Covenant by forcing Mr. Wang to sign a self-incriminating confession. In addition, the

[2] See Human Rights Committee, general comment No. 32 (2007) on the right to equality before courts and tribunals and to a fair trial, para. 21. See also the Working Group's opinion No. 44/2015, para. 13, in which the source made a similar submission relating to the same judge, noting that the judge had been sanctioned by the European Union in 2011 for human rights violations.

source argues that the substandard conditions of detention negatively affected Mr. Wang's ability to prepare his defence.

Category V: discrimination

39. In relation to category V, the source argues that the detention of Mr. Wang was discriminatory and violated the human rights obligations of the Islamic Republic of Iran under articles 2 (1) and 26 of the Covenant. The prosecution of Mr. Wang, the public statements by the Iranian judiciary, the pattern of nationality-based discrimination by the Islamic Republic of Iran and the broader political context all indicate that Mr. Wang's detention was motivated by his status as a United States citizen.

Response from the Government

40. On 31 January 2018, the Working Group transmitted the allegations from the source to the Government of the Islamic Republic of Iran under its regular communication procedure. The Working Group requested the Government to provide, by 3 April 2018, detailed information about the current situation of Mr. Wang. The Working Group also requested the Government to clarify the legal provisions justifying Mr. Wang's detention, and the compatibility of his detention with the State's obligations under international human rights law. The Working Group called upon the Government to ensure the physical and mental integrity of Mr. Wang.

41. On 2 February 2018, the Government requested an extension of the deadline for its response. The extension was granted, and a new deadline of 3 May 2018 was set. The Government submitted its response on 3 May 2018.

42. In its response, the Government states that Mr. Wang had received a study visa from the Ministry of Science, Research and Technology to study Farsi at the Dehkhoda Institute. However, despite having been prohibited access to the requested documents and venues, Mr. Wang bribed some employees and illegally obtained access to archival documents in the national library, documents of the Islamic Consultative Assembly (parliament) and the archives of the Ministry of Foreign Affairs[3] under the pretext of conducting academic research.

43. According to the Government, further investigations revealed that Mr. Wang's study had been used as a cover for generating an ethnic crisis in the Islamic Republic of Iran. He was questioned by the police in relation to these criminal acts. On 17 August 2016, Mr. Wang was charged in the lobby of the Azadi Hotel and a court order (No. 950056) was presented to him. He was able to immediately inform his family. Mr. Wang was informed of the charges against him at the time of his arrest. The Government denies that Mr. Wang was given permission to return to the United States. Mr. Wang was taken to Evin Prison, a registered prison in Tehran, where he received a medical examination that revealed no problems with his health.

44. The Government notes that an order to hold a person in solitary confinement is issued by a judge during the investigation in a very limited number of cases in order to prevent collusion between the suspect and accomplices. According to article 175 (4) of the Executive Order of the Prisons Organization, imprisonment in single units for up to 20 days is prescribed as a disciplinary punishment. A prisoner subject to such punishment enjoys the other rights of a prisoner. The regulations define the terms of use of this punishment, which includes its use for persons charged with terrorist offences or activities compromising national security.

45. All of the relevant legal provisions were carefully observed in the case of Mr. Wang: during the few days he spent in solitary confinement he was supervised by the Prisons Organization and the confinement was ordered by a judge. Solitary confinement was

[3] The Government states that these records were sought by Mr. Wang for a comparative study of the governance of the Governments of the Islamic Republic of Iran and the Russian Empire with regard to the Turkmen region and ethnicity, that is, a comparative study of Turkmenia in the Russian Federation and Turkmen Sahra in the Islamic Republic of Iran.

ordered for the completion of the investigation and to prevent collusion. During the short period of his solitary confinement, Mr. Wang's rights were observed, and he had access to a television, a refrigerator, furniture and media and health facilities.

46. In addition, the Swiss Embassy in Tehran was notified by the Ministry of Foreign Affairs that a United States citizen had been arrested. The attorney at the Swiss Embassy was able to examine the progress of the case at the end of the first week of Mr. Wang's detention. Mr. Wang met with the attorney on 13 September 2016. The Swiss Ambassador also met with Mr. Wang on 14 September 2016, and the Swiss authorities have met with Mr. Wang on five occasions. All the legal requirements applicable to foreign nationals, including access to an interpreter and consular protection, have been observed.

47. According to the Government, upon receiving a report from the police, Mr. Wang was summoned by the judicial authorities. Due to the necessity of completing the investigation, the order for Mr. Wang's arrest was renewed on a monthly basis by the judicial authorities. The Government submits that the time taken to file the case was reasonable.

48. After the completion of the investigation on 7 January 2017, the bill of indictment was sent to the competent court to determine a time for the hearing. The preliminary indictment contained details of the alleged offences, including Mr. Wang's contact with organizations seeking to overthrow the Islamic Republic of Iran. It also detailed how Mr. Wang served those groups and received money for the collection of information and intelligence. The Government notes that access to the records of the libraries and archives mentioned in the source's submission requires approval that Mr. Wang did not have, and he was officially prohibited from using the archives. He was only able to gain access to the documents through bribery, and his activities indicated the purposeful pursuit of acts of espionage.

49. The court found Mr. Wang guilty and, in accordance with articles 215 and 508 of the Islamic Penal Code, sentenced him to 10 years' imprisonment. Mr. Wang was required to repay the funds that he had received for his illegal services. The Government states that the requirements of a fair trial were met. Article 352 of the Criminal Procedure Code stipulates that the court may, at its discretion, meet in camera, and if public security requires it. Given that the charges against Mr. Wang involved espionage, the court held the trial in camera.

50. The decision was subsequently appealed and was confirmed by the appellate court. On 12 August 2017, the three judges of the court of appeal stated that Mr. Wang had not provided substantiated reasons for the appeal. The court of appeal found that the initial judgment had been issued in accordance with the evidence and in a reasoned and documented manner based on the same materials submitted by the defendant at trial and on appeal. The judiciary is not required to release news of the arrest or trial of individuals, and the conviction of a person may be made public only after the issuance of the final verdict.

51. The Government states that Mr. Wang enjoys all the amenities that other prisoners do, including food, air conditioning, media facilities and telephone calls with his family. He has access to the appropriate medical and therapeutic facilities. Mr. Wang's health is normal, apart from pre-existing skin allergies. Mr. Wang has some command of Farsi and is allowed to communicate with other people in the prison. The Government provided a list of dates of Mr. Wang's contacts, visits and medical appointments.

52. The Government recalls that all prisons in the Islamic Republic of Iran are under the direct control of prosecutors, particularly units where accused persons and those convicted of national security offences are held. The Department of Justice of each province conducts periodic and impromptu inspections. Furthermore, the Prisons Organization is an independent body that operates under judicial supervision and is responsible for the treatment of prisoners. The Prisons Organization cannot accept anyone as a prisoner without a judicial order. In practice, a central supervisory board and provincial boards consider complaints and take action on allegations, and prison officers receive the requisite training in managing prisoners.

53. According to the Government, efforts are being made to improve the hygiene, treatment and nutrition of prisoners throughout the country. Free medical services are

provided to prisoners and specialized medical services can be accessed outside prisons. Medical tests are required for all prisoners at least once a month, and the Nelson Mandela Rules are observed and, in some cases, exceeded. More specifically, Evin Prison has been visited by delegations from inside and outside of the Islamic Republic of Iran, with 45 resident ambassadors and diplomatic representatives in Tehran visiting Evin Prison on 5 July 2017. Positive statements about the conditions of the prison were reflected in the media. The observance of the rights of detainees on Ward 209 of Evin Prison is closely monitored by the authorities.

54. The Government states that there has been no report of Mr. Wang suffering from any physical or psychological illness. The Government acknowledges that tensions between prisoners occur, and that movements between wards take place, but emphasizes that Mr. Wang is satisfied with his conditions in Evin Prison and has thanked the prison authorities in writing on two occasions.

55. In relation to the source's submissions on the categories applied by the Working Group, the Government argues that Mr. Wang's case involves illegal actions rather than activities protected under the Covenant that would fall within category II. In any event, the Government refers to permissible restrictions on rights under the Covenant, such as restrictions that are necessary for the protection of national security under article 19 (3).

56. In addition, the Government refers to its arguments on the legal basis of the charges and on the fair and impartial process applied to Mr. Wang, and submits that the case does not fall within category III. The Government denies the source's allegation that Mr. Wang was forced to make a confession. The verdict against Mr. Wang was not issued solely on the basis of his confession, but was based on a large volume of information placed before the courts. Furthermore, the Government submits that, since Mr. Wang's legal representatives were attorneys from the Swiss Embassy in Tehran, the source's allegation that United States lawyers were not able to participate in Mr. Wang's defence is incorrect. Mr. Wang's lawyers had sufficient access to him and the contents of the case, and were able to defend him.

57. Finally, the Government states that legal proceedings were initiated in the present case without regard to the individual's nationality and that there was no discrimination involved. Iranian law is applied equally to all defendants, including United States citizens, without exception.

Further information from the source

58. On 4 May 2018, the Government's response was sent to the source. The source responded on 24 July 2018.

59. The source submits that its original submission provided a comprehensive account of Mr. Wang's arrest, detention and wrongful conviction. Having established a prima facie case, the burden rests with the Government to rebut these claims. Instead, the Government has failed to explain how Mr. Wang violated the country's espionage statutes, and has made sweeping claims about the amenities in the national prisons, all without supporting documents.

60. The source emphasizes that Mr. Wang is a doctoral student who travelled to the Islamic Republic of Iran to study Farsi and to research governance issues from the nineteenth and early twentieth centuries. Mr. Wang clearly stated his intention to conduct research to the Iranian authorities before his visit. The source refers to correspondence between Princeton University and the Interests Section of the Islamic Republic of Iran stating the purpose of Mr. Wang's research and to a letter of support for this research from the Dehkhoda Institute. The source points out that, far from concealing his purpose, Mr. Wang also wrote to the British Institute for Persian Studies thanking it for putting him in contact with senior scholars at the relevant Iranian archival and library institutions.

61. In relation to the Government's assertion that Mr. Wang's academic research was "a cover for generating an ethnic crisis in the Islamic Republic of Iran", the source notes that Mr. Wang was only engaged in historical research and had no contact with ethnic groups inside or outside of the country. With reference to the Government's claims that it obtained

evidence that Mr. Wang was involved with groups using secret funds to overthrow the Islamic Republic of Iran and that he received money for collecting information, if such evidence exists, the Government could and should have submitted it, or at least a detailed description, with its response. Mr. Wang had no contacts with secret groups, no plans to take action against the Government, and received no money to collect information for any person or Government.

62. The source reiterates its allegations in relation to categories I, II, III and V. In relation to the lack of a legal basis for the arrest and detention, the source emphasizes that, contrary to the Government's claims, the Iranian authorities did not present Mr. Wang with formal charges or inform his family or the Swiss Embassy of his arrest. Mr. Wang told the Swiss Embassy that he was being taken to the airport, but he never arrived. Similarly, the authorities did not inform Mr. Wang's family, Princeton University, the Swiss Embassy, the United States Department of State, or Mr. Wang's local lawyer of his location. It was only after his local lawyer made enquiries at Evin Prison that the authorities confirmed that Mr. Wang was being held there, but they did not allow him to see or speak with Mr. Wang.

63. The source points to admissions made by the Government. First, the Government conceded that Mr. Wang had been held in solitary confinement at Evin Prison, and it did not dispute that the solitary confinement had lasted 18 days. Second, the Government confirmed that Mr. Wang had not met with his local lawyer until 13 September 2016, more than a month after his arrest. Third, the Government conceded that Mr. Wang had not received a consular visit until 14 September 2016 and that Mr. Wang had only been permitted five consular visits in two years. Fourth, the Government admitted that the indictment had been issued in January 2017, more than five months after Mr. Wang's arrest.

64. According to the source, Mr. Wang was brought to trial and convicted in April 2017, after more than eight months in prison. Although Mr. Wang and his local lawyer did not learn of his conviction until the end of April, it appears that he was convicted on 9 April 2017, a day after the conclusion of his trial. The Government's response notes that Mr. Wang was convicted of violating articles 215 and 508 of the Islamic Penal Code. However, Mr. Wang and his local lawyer were told that he had been convicted under articles 501 and 508, while the Iranian appeals court referred only to articles 215 and 508 in its judgment.[4] The Government has failed to provide any evidence, either during the trial or in its response, to support its claim that Mr. Wang violated any of these three provisions.

65. The Government alleged that Mr. Wang had been in contact with organizations and groups that opposed the Government and had gained access to certain documents through bribery, which indicated the purposeful pursuit of acts of espionage. However, the Government did not show at Mr. Wang's trial or in its response that he had been in contact with any foreign Government or opposition group. The Government of the Islamic Republic of Iran appears to consider that Mr. Wang's communications with his Princeton University dissertation adviser, a scholar specializing in Russian and Eurasian history, constituted cooperation with an opposition organization or foreign Government. Mr. Wang's dissertation adviser has no involvement with Iranian opposition groups or contacts with any foreign Governments relating to the Islamic Republic of Iran.

66. Finally, the source reiterates that Mr. Wang has suffered for two years in deplorable detention conditions. Rather than demonstrate that it complied with the Covenant and the Nelson Mandela Rules, the Government insists that Mr. Wang receives excellent medical treatment. The Government's claims in relation to conditions at Evin Prison are not credible given the widespread condemnation of that facility — the most infamous prison in the country. Mr. Wang has been subjected to cruel, inhuman and degrading treatment throughout his detention, which hindered his ability to mount a defence and remains a threat to his health and safety.

[4] The source specifically cites article 215 of the Islamic Penal Code, noting that it appears to describe what a court or prosecutor may do with confiscated property.

Discussion

67. The Working Group thanks the source and the Government for their submissions.

68. In determining whether Mr. Wang's deprivation of liberty is arbitrary, the Working Group has regard to the principles established in its jurisprudence to deal with evidentiary issues. If the source has presented a prima facie case for breach of the international requirements constituting arbitrary detention, the burden of proof should be understood to rest upon the Government if it wishes to refute the allegations. Mere assertions by the Government that lawful procedures have been followed are not sufficient to rebut the source's allegations (see A/HRC/19/57, para. 68).

69. The source alleges that the police did not present an arrest warrant and did not inform Mr. Wang of the reasons for his arrest on 7 August 2016. The Government denies these allegations but has not provided any evidence to substantiate its assertions. According to article 9 (1) of the Covenant, no one shall be deprived of liberty except on such grounds and in accordance with such procedure as are established by law. The Working Group finds that Mr. Wang was arrested without an arrest warrant and without being informed at that time of the reasons for his arrest, in violation of article 9 (1) and (2) of the Covenant. Furthermore, as the Government confirmed, the indictment against Mr. Wang was issued in January 2017, five months after his arrest. Mr. Wang was therefore not promptly informed of the charges against him, in violation of article 9 (2) of the Covenant. Accordingly, given that no arrest warrant was presented at the time of arrest, the reasons for the arrest were not provided and Mr. Wang was not promptly notified of the charges against him, the authorities have failed to establish a legal basis for his detention.

70. In addition, the Working Group finds that the Government violated article 9 (3) of the Covenant by failing to bring Mr. Wang before a judge promptly after his arrest and by holding him incommunicado for one week. The Government stated that the detention order was renewed on a monthly basis by a judicial authority, but there is no indication that Mr. Wang was brought before a court until 11 December 2016, more than four months after his arrest. There is also no indication that Mr. Wang had any opportunity to bring proceedings to challenge his detention, in violation of article 9 (4) of the Covenant. Judicial oversight of deprivation of liberty is a fundamental safeguard of personal liberty[5] and is essential in ensuring that detention has a legal basis.

71. For these reasons, the Working Group finds that there was no legal basis for the arrest and detention of Mr. Wang. His deprivation of liberty is arbitrary under category I.

72. The source further alleges that Mr. Wang was deprived of his liberty for peacefully exercising his right to freedom of expression under article 19 of the Universal Declaration of Human Rights and article 19 of the Covenant. The Government denies this allegation, insisting that Mr. Wang was detained for his illegal actions.

73. While the Government provided few details as to the precise charges brought against Mr. Wang, it appears from the appeal court judgment that Mr. Wang was convicted under articles 215 and 508 of the Islamic Penal Code. Mr. Wang appears to have received the maximum penalty under article 508, having been sentenced to 10 years' imprisonment. Article 508 of the Islamic Penal Code provides that:

> Anyone who cooperates by any means with foreign States against the Islamic Republic of Iran, if not considered as an enemy of God, shall be sentenced to 1 to 10 years' imprisonment.

74. The Working Group recalls that the freedom of expression protected under international human rights law includes the right to seek, receive and impart information and ideas of all kinds.[6] In the present case, Mr. Wang travelled to the Islamic Republic of Iran with the express purpose of conducting dissertation research on nineteenth- and early

[5] See the United Nations Basic Principles and Guidelines on Remedies and Procedures on the Right of Anyone Deprived of Their Liberty to Bring Proceedings Before a Court, para. 3.

[6] See Human Rights Committee, general comment No. 34 (2011) on the freedoms of opinion and expression, paras. 11 and 18.

twentieth-century Qajar and Pahlavi governance. The Government did not explain in its response how Mr. Wang had cooperated with a foreign State (which, from the indictment, appears to be the United States) against the Islamic Republic of Iran, nor how accessing historical archives relating to a period of governance over 100 years ago could amount to an attempt to overthrow the Government. Accordingly, the Working Group finds that Mr. Wang was peacefully exercising his right to seek and receive information for academic purposes in the form of historical records held by a public body, and that this falls within the boundaries of the freedom of expression.

75. The Government refers to permissible restrictions on the freedom of expression under article 19 (3) of the Covenant, particularly for the protection of national security. However, Mr. Wang sought to review historical records, including newspaper clippings produced between 1880 and 1921. The Government did not establish a clear connection between this activity and contemporary national security interests protected under article 19 (3). Accordingly, the Working Group finds that the application of Iranian espionage laws to Mr. Wang is not permissible under article 19 (3) of the Covenant because it does not serve a legitimate interest, such as the protection of national security. Similarly, the Government did not demonstrate why bringing charges against Mr. Wang was a necessary and proportionate response to his alleged activities.

76. In any event, the Human Rights Council has called on States to refrain from imposing restrictions under article 19 (3) that are not consistent with international human rights law.[7] Moreover, as the Human Rights Committee has stated, extreme care must be taken by States parties to ensure that treason laws and similar provisions relating to national security, whether described as official secrets or sedition laws or otherwise, are crafted and applied in a manner that conforms to the strict requirements of article 19 (3). It is not compatible with article 19 (3), for instance, to invoke such laws to suppress, or withhold from the public, information of legitimate public interest that does not harm national security or to prosecute researchers or others for having disseminated such information.[8]

77. The Working Group concludes that Mr. Wang has been deprived of his liberty as a result of the peaceful exercise of his right to freedom of expression under article 19 of the Universal Declaration of Human Rights and article 19 of the Covenant. His deprivation of liberty is arbitrary under category II. The Working Group refers this case to the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression.

78. The Working Group considers that certain provisions of the Islamic Penal Code, and in particular article 508, are so vague and overly broad that they could, as in the present case, result in penalties being imposed on individuals who had merely exercised their rights under international law. As the Working Group has stated, the principle of legality requires that criminal laws be formulated with sufficient precision so that the individual can access and understand the law, and regulate his or her conduct accordingly.[9] In this case, the application of vague and overly broad provisions adds weight to the Working Group's conclusion that Mr. Wang's deprivation of liberty falls within category II. The Working Group considers that, in some circumstances, laws may be so vague and overly broad that it is impossible to invoke them as a legal basis justifying the deprivation of liberty.

79. Given its finding that the deprivation of liberty of Mr. Wang was arbitrary under category II, the Working Group emphasizes that no trial of Mr. Wang should have taken place. However, he was tried by Branch 15 of the Revolutionary Court in March 2017 and convicted on 9 April 2017. The Working Group considers that there were multiple violations of his right to a fair trial, as follows:

(a) The authorities failed to inform Mr. Wang's family and lawyer of his whereabouts following his arrest, in violation of principles 15, 16 (1), 18 and 19 of the

[7] See Council resolution 12/16, para. 5 (p).

[8] Ibid., para. 30.

[9] See, e.g., opinion No. 41/2017, paras. 98–99.

Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment;

(b) The authorities failed to notify the United States or Switzerland that Mr. Wang had been detained,[10] in violation of article 36 of the Vienna Convention on Consular Relations. The Government asserted that it had notified the Swiss Embassy of Mr. Wang's arrest but had provided no further details. A representative of the Swiss Embassy has only been permitted to make five consular visits to Mr. Wang and was not granted such a visit for over a month after his detention, in violation of rule 62 of the Nelson Mandela Rules. Although the Government argued that all requirements applicable to foreign nationals had been met, it conceded that Mr. Wang had not been accorded a consular visit until 14 September 2016 and that he had only been permitted five consular visits in two years;

(c) Mr. Wang was held in pretrial detention for more than seven months until his first appearance before the Revolutionary Court on 11 March 2017. The Government did not challenge this allegation, arguing that the time taken to file the case was reasonable due to the need to complete the investigation. According to article 9 (3) of the Covenant, pretrial detention should be the exception rather than the rule, and as short as possible. Seven months was unreasonably long, given that no alternatives to detention appear to have been considered;

(d) Mr. Wang was held in solitary confinement for at least 18 days following his arrest. The Government stated that all legal procedures were observed during the "few days" that it was necessary to hold Mr. Wang in solitary confinement in order to prevent possible collusion, but did not deny that that confinement extended to 18 days. According to rule 45 of the Nelson Mandela Rules, the imposition of solitary confinement must be accompanied by certain safeguards. That is, solitary confinement must only be used in exceptional cases as a last resort, for as short a time as possible, and be subject to independent review. These conditions do not appear to have been observed. Moreover, prolonged solitary confinement in excess of 15 consecutive days is prohibited under rules 43 (1) (b) and 44 of the Nelson Mandela Rules;

(e) Mr. Wang's trial was closed, in violation of his right to a public hearing under article 14 (1) of the Covenant. The Government confirmed that the trial had been held in camera because it involved espionage charges, noting that closed hearings were permitted if public security required. The Government did not explain how Mr. Wang's trial on espionage charges posed a threat to national security so serious that it warranted a closed hearing. Moreover, the essential findings, evidence and reasons should have been made public in accordance with article 14 (1) of the Covenant;[11]

(f) The revolutionary courts that tried Mr. Wang and heard his appeal do not meet the standards of an independent and impartial tribunal under article 14 (1) of the Covenant;[12]

(g) Mr. Wang was denied access to legal counsel, in violation of article 14 (3) (b) of the Covenant. Following his arrest, Mr. Wang was interrogated without the presence of a lawyer and, as the Government confirmed, did not meet with his lawyer for more than a month after his arrest. Persons deprived of their liberty have the right to legal assistance by counsel of their choice at any time during their detention, including immediately after their apprehension.[13] Mr. Wang's local lawyer was not permitted to share information with Mr. Wang's attorneys based in the United States. This restricted Mr. Wang's ability to defend the case, given that he had allegedly cooperated with institutions in the United States and

[10] As noted in paragraph 13 above, Switzerland represents the interests of the Government of the United States in the Islamic Republic of Iran.

[11] See Human Rights Committee, general comment No. 32, para. 29.

[12] See the report of the Working Group on its visit to the Islamic Republic of Iran (E/CN.4/2004/3/Add.2, para. 65). The Working Group considers that its finding in that report regarding the revolutionary courts remains current (see opinion No. 19/2018, para. 34).

[13] See United Nations Basic Principles and Guidelines on Remedies and Procedures on the Right of Anyone Deprived of Their Liberty to Bring Proceedings Before a Court, principle 9 and guideline 8.

with the Government of the United States. Mr. Wang was not permitted to hire experienced local legal counsel;

(h) Mr. Wang's local lawyer was prevented from calling witnesses or speaking on Mr. Wang's behalf until the end of the trial, in violation of article 14 (3) (d) and (e) of the Covenant. While the Government noted that Mr. Wang's lawyers had sufficient access to the contents of the case and had been able to defend him, it did not specifically deny this allegation;

(i) Mr. Wang was forced to sign a confession following his solitary confinement. The Government denies this allegation, and claims that the verdict against Mr. Wang was not issued solely on the basis of his confession but was also based on other evidence. The burden is on the Government to prove that Mr. Wang's statement was given freely,[14] and it has not done so. The Working Group considers that a forced confession taints the entire proceedings, regardless of whether other evidence was available to support the verdict,[15] as it violates the right to be presumed innocent under article 14 (2) of the Covenant and the right not to be compelled to confess guilt under article 14 (3) (g);

(j) The overcrowded, unhygienic and inhuman conditions in which Mr. Wang has been detained have hindered his ability to participate in and prepare his defence.[16]

80. The Working Group concludes that the violations of the right to a fair trial are of such gravity as to give Mr. Wang's deprivation of liberty an arbitrary character under category III.

81. In addition, the Working Group considers that the source has established a prima facie case that Mr. Wang was detained because of his status as a foreign national. The Government denies this allegation, claiming that Iranian law is applied equally to all defendants. However, there are several factors that lead the Working Group to conclude that Mr. Wang's detention was motivated by the fact that he is a United States citizen. First, there is no evidence that Mr. Wang was present in the Islamic Republic of Iran for any reason other than to pursue his dissertation research. Indeed, prior to his arrest, he had visited the Islamic Republic of Iran from January to March 2016 without incident, and had informed the authorities of the purpose of his research. Second, the Working Group considers that it is no coincidence that the charges against Mr. Wang are linked to his relationship with academic institutions in the United States.[17] Third, Mr. Wang's sentence of 10 years' imprisonment appears to be disproportionately heavy, as there was no evidence that he had a criminal record, nor that he was intending to, or did in fact, conduct espionage or cause an ethnic crisis in the Islamic Republic of Iran.

82. In its jurisprudence, the Working Group has repeatedly found a practice in the Islamic Republic of Iran of targeting foreign nationals for detention.[18] The Special Rapporteur on the situation of human rights in the Islamic Republic of Iran also recently recognized this pattern, specifically referring to Mr. Wang's case and noting that current estimates suggest that at least 30 foreign and dual nationals have been imprisoned since 2015.[19] The Working Group considers that the present case is part of that pattern. Mr. Wang

[14] See Human Rights Committee, general comment No. 32, para. 41.

[15] See opinion No. 34/2015, para. 28.

[16] See opinion No. 47/2017, para. 28. See also E/CN.4/2004/3/Add.3, para. 33; and opinion No. 92/2017, para. 56.

[17] The source refers to a Mizan News Agency report in July 2017 about "American research centres" sending spies to the Islamic Republic of Iran under the cover of scholarly activities, and a Channel 2 news segment in November 2017 that alleged that the United States had chosen the topic of Mr. Wang's dissertation.

[18] See, e.g., opinions Nos. 49/2017, 7/2017 and 28/2016. See also opinion No. 92/2017, regarding detention of an Iranian national with Swedish residency, and Nos. 50/2016, 44/2015, 28/2013 and 18/2013, concerning detention of United States nationals, some of whom also held Iranian nationality.

[19] See A/HRC/37/68, paras. 51–57. The Special Rapporteur notes that these cases are emblematic examples of due process failings, as they commonly relate to the mere suspicion of anti-State activities with no detailed charges. The Secretary-General has also expressed concern relating to the

was deprived of his liberty on discriminatory grounds, that is, on the basis of his national or social origin, in violation of articles 2 and 7 of the Universal Declaration of Human Rights and articles 2 (1) and 26 of the Covenant. His deprivation of liberty is arbitrary according to category V.

83. Given the serious violations of Mr. Wang's rights, the Working Group refers this case to the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran.

84. The Working Group wishes to express its grave concern about Mr. Wang's health, which is reportedly deteriorating rapidly after two years of detention. Mr. Wang suffers from depression, and has expressed suicidal thoughts to his family. He has not received medical treatment that addresses his ongoing health issues. According to the source, Mr. Wang has also been subjected to cruel, inhuman and degrading treatment, including transfers between prison wards without explanation, threats and violence from other prisoners, intimidation and physical abuse by prison guards, detention in deplorable conditions and denial of access to books and clothing shipped by his family. The Government denies these allegations, insisting that Mr. Wang is in normal health and is satisfied with the conditions in Evin Prison. The Government provided the dates of Mr. Wang's visits and medical appointments. Having taken into account all available information, the Working Group considers that the Government did not provide convincing information or evidence in support of its claims.

85. In the view of the Working Group, Mr. Wang's treatment falls short of the standards set out, inter alia, in rules 1, 12, 13, 24, 25, 27, 30, 31 and 42 of the Nelson Mandela Rules. The Working Group urges the Government to immediately release Mr. Wang, and to ensure that he is urgently transferred to a hospital. The Working Group refers this case to the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment.

86. This case is one of several cases brought before the Working Group in the last five years concerning arbitrary deprivation of liberty in the Islamic Republic of Iran.[20] The Working Group notes that many of the cases involving the Islamic Republic of Iran follow a familiar pattern of arrest and detention outside legal procedures; lengthy pretrial detention with no access to judicial review; incommunicado detention and prolonged solitary confinement; denial of access to legal counsel; prosecution under vaguely worded criminal offences with inadequate evidence to support the allegations; a closed trial and appeal by courts lacking in independence; disproportionately harsh sentencing; torture and ill-treatment; and denial of medical care. The Working Group recalls that, under certain circumstances, widespread or systematic imprisonment or other severe deprivation of liberty in violation of the rules of international law may constitute crimes against humanity.[21]

87. The Working Group would welcome the opportunity to work constructively with the Government to address arbitrary deprivation of liberty in the Islamic Republic of Iran. Given that a significant period of time has passed since its most recent country visit to the Islamic Republic of Iran in February 2003, the Working Group considers that it is now an appropriate time to conduct another visit. The Working Group recalls that the Government issued a standing invitation to all thematic special procedure mandate holders on 24 July 2002, and awaits a positive response to its request to visit made on 10 August 2016.

88. As the human rights record of the Islamic Republic of Iran will be reviewed during the third cycle of the universal periodic review in November 2019, the Government may wish to seize the present opportunity to enhance its cooperation with the special procedures and to bring its laws into conformity with international human rights law.

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prosecution of foreign and dual nationals in the Islamic Republic of Iran, including Mr. Wang (A/HRC/37/24).

[20] See, e.g., opinions Nos. 19/2018, 92/2017, 49/2017, 48/2017, 9/2017, 7/2017, 50/2016, 28/2016, 25/2016, 2/2016, 1/2016, 44/2015, 16/2015, 55/2013, 52/2013, 28/2013 and 18/2013.

[21] See, e.g., opinion No. 47/2012, para. 22.

Disposition

89. In the light of the foregoing, the Working Group renders the following opinion:

> The deprivation of liberty of Xiyue Wang, being in contravention of articles 2, 7, 9, 10, 11 (1) and 19 of the Universal Declaration of Human Rights and of articles 2 (1), 9, 14, 19 and 26 of the International Covenant on Civil and Political Rights, is arbitrary and falls within categories I, II, III and V.

90. The Working Group requests the Government of the Islamic Republic of Iran to take the steps necessary to remedy the situation of Xiyue Wang without delay and bring it into conformity with the relevant international norms, including those set out in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.

91. The Working Group considers that, taking into account all the circumstances of the case, in particular the risk of harm to Xiyue Wang's health, the appropriate remedy would be to release Mr. Wang immediately and accord him an enforceable right to compensation and other reparations, in accordance with international law.

92. The Working Group urges the Government to ensure a full and independent investigation of the circumstances surrounding the arbitrary deprivation of liberty of Xiyue Wang, including his alleged assault by other prisoners, and to take appropriate measures against those responsible for the violation of his rights.

93. The Working Group requests the Government to bring its laws, particularly article 508 of the Islamic Penal Code, into conformity with the recommendations made in the present opinion and with the commitments made by the Islamic Republic of Iran under international human rights law.

94. In accordance with paragraph 33 (a) of its methods of work, the Working Group refers the present case to the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment.

95. The Working Group requests the Government to disseminate the present opinion through all available means and as widely as possible.

Follow-up procedure

96. In accordance with paragraph 20 of its methods of work, the Working Group requests the source and the Government to provide it with information on action taken in follow-up to the recommendations made in the present opinion, including:

(a) Whether Mr. Wang has been released and, if so, on what date;

(b) Whether compensation or other reparations have been made to Mr. Wang;

(c) Whether an investigation has been conducted into the violation of Mr. Wang's rights and, if so, the outcome of the investigation;

(d) Whether any legislative amendments or changes in practice have been made to harmonize the laws and practices of the Islamic Republic of Iran with its international obligations in line with the present opinion;

(e) Whether any other action has been taken to implement the present opinion.

97. The Government is invited to inform the Working Group of any difficulties it may have encountered in implementing the recommendations made in the present opinion and whether further technical assistance is required, for example, through a visit by the Working Group.

98. The Working Group requests the source and the Government to provide the above information within six months of the date of the transmission of the present opinion. However, the Working Group reserves the right to take its own action in follow-up to the opinion if new concerns in relation to the case are brought to its attention. Such action

would enable the Working Group to inform the Human Rights Council of progress made in implementing its recommendations, as well as any failure to take action.

99. The Working Group recalls that the Human Rights Council has encouraged all States to cooperate with the Working Group and requested them to take account of its views and, where necessary, to take appropriate steps to remedy the situation of persons arbitrarily deprived of their liberty, and to inform the Working Group of the steps they have taken.[22]

[*Adopted on 23 August 2018*]

[22] See Human Rights Council resolution 33/30, paras. 3 and 7.